

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA

Tiesha Evans and Kathy Reaves, *a/k/a*
Kathy Juanita Reaves,

PLAINTIFFS

v.

South Carolina Law Enforcement
Division,
City of Florence Police Department,
City of Florence,
Florence School District One (FSD1),

DEFENDANTS

Case No. 4:22-cv-01150 -TLW

ORDER

Plaintiffs Kathy Reaves and Tiesha Evans (collectively, “Plaintiffs”), proceeding *pro se*, bring this action against the above-named defendants arising out of the forty-five-day suspension of Evans’ daughter from riding on a public school bus. ECF No. 1. The suspension was allegedly based on an altercation between Evan’s daughter and another student. *Id.* This case was assigned, pursuant to 28 U.S.C. § 636(b)(1)(B), to United States Magistrate Judge Thomas E. Rogers, III. It now comes before this Court for review of the Report and Recommendation (“Report”) filed by the magistrate judge. ECF No. 28. The Report recommends that the Court dismiss Plaintiff’s complaint with prejudice in accordance with Fed. R. Civ. P. 41(b), which provides dismissal for failure to prosecute, comply with the Federal Rules of Civil Procedure, or a court order. *Id.* at 2.

The magistrate judge’s recommendation is based Plaintiff’s failure to comply

with his order dated September 23, 2022, ECF No. 22, directing Plaintiffs to file a Second Amended Complaint. *Id.* The Report notes that, after several months, Plaintiffs have not filed the requested amended complaint. *Id.* Accordingly, the Report recommends dismissal of Plaintiffs' action for failure to comply with the magistrate judge's order. This recommendation is based on both Rule 41 and other relevant caselaw.¹ *Id.* Plaintiffs have not filed objections to the Report and the deadline for filing them has now expired. This matter is therefore ripe for the Court's review.

The Court is charged with reviewing *de novo* any portion of the magistrate judge's Report to which a specific objection is registered, and may accept, reject, or modify, in whole or in part, the recommendations contained in that report. 28 U.S.C. § 636. In conducting its review, the Court applies the following standard:

The magistrate judge makes only a recommendation to the Court, to which any party may file written objections.... The Court is not bound by the recommendation of the magistrate judge but, instead, retains responsibility for the final determination. The Court is required to make a *de novo* determination of those portions of the report or specified findings or recommendation as to which an objection is made. However, the Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the report and recommendation to which no objections are addressed. While the level of scrutiny entailed by the Court's review of the Report thus depends on whether or not objections have been filed, in either case the Court is free, after review, to accept, reject, or modify any of the magistrate judge's findings or recommendations.

¹ *Justice v. N. Carolina Dep't Health & Hum. Servs. Sec'y*, No. 20-1597, 2022 WL 42465, at *2 (4th Cir. Jan. 5, 2022) (unpublished) ("even if the district court's [prior order] was error, the court subsequently dismissed the case for failure to comply with a court order, rendering any error irrelevant."); *see also Ballard v. Carlson*, 882 F.2d 93, 95 (4th Cir. 1989) (dismissal with prejudice appropriate where warning given); *Chandler Leasing Corp. v. Lopez*, 669 F.2d 919, 920 (4th Cir. 1982) (court may dismiss *sua sponte*).

Wallace v. Housing Auth. of the City of Columbia, 791 F. Supp. 137, 138 (D.S.C. 1992) (citations omitted).

In light of the standard in *Wallace*, the Court has carefully reviewed the Report and other relevant filings. For the reasons stated by the magistrate judge, the Report, ECF No. 28, is **ACCEPTED**. This matter is **DISMISSED WITHOUT PREJUDICE**.

IT IS SO ORDERED.

s/Terry L. Wooten
Senior United States District Judge

March 13, 2023
Columbia, South Carolina